IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.2334/07
Rampal Vs. Board of Revenue & Ors.

11.04.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri A.K. Bajpai for petitioner.

Shri A.K. Bajpai, the learned counsel for the petitioner argued that the learned Sub-Divisional Officer even without any specific prayer in the application filed u/s. 212 by the petitioners, passed an order to the effect that the petitioner would be free to cultivate the entire 38 bighas of land which is 1/3rd part of the entire chunk and which is the disputed property subject to his depositing Rs.1,000/- per

bigha per annum as security in the government treasury till he cultivates the land. It was argued that there was no specific prayer and therefore the learned Revenue Appellate Authority rightly reversed the order, but the Board of Revenue has restored that order back by committing the same error which the first court made. It was submitted that it would be too harsh on the petitioner if he is now required to pay the entire amount as arrears of security since 1994, as a long period of 13 years have already elapsed since passing of the original order.

Having heard the learned counsel for the petitioner and perused the orders passed by the Court belows, I find that even if there was no specific prayer made

by either of the parties, the Sub-Divisional Officer in consideration of the application filed u/s. 212 instead of appointing a receiver could legitimately mould the relief on reasonable considerations in allowing the petitioner to continue to cultivate the land subject to deposit of security amount. The amount so deposited was to remain in the government treasury and would abide by the final order passed by the revenue suit. In the event of petitioner succeeding in the suit, it goes without saying, the same would be liable to be refunded to him. In my considered view therefore the order of the Board of Revenue does not suffer from any error as may be called an error apparent on the face of the record so as to justify

interference by this Court in exercise of its powers under Article 227 of the Constitution of India. So far as the argument that the petitioner would not be in a position to deposit the outstanding amount at one go and therefore should be allowed to make payment of such amount in installments of reasonable sum, the petitioner is free to make such a request to the Sub-Divisional Officer who upon hearing the concerned parties, shall pass appropriate order on such request in accordance with law taking into consideration the elapsed lapse of time in between.

With these observations, the writ petition is dismissed.

(Mohammad Rafiq),J.

Rs/-